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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/602,863 | 06/25/2003 | Craig Bienick | | 2110 |

7590 06/15/2005
Vincent L. Ramik
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Suite 101
7345 McWhorter Place
Annandale, VA 22003

EXAMINER

SAWHNEY, HARGOBIND S

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

2875

DATE MAILED: 06/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

87

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|------------------------------|------------------------|--|---------------------|--|
| Office Action Summary | Application No. | | Applicant(s) | |
| | 10/602,863 | | BIENICK, CRAIG | |
| | Examiner | | Art Unit | |
| | Hargobind S. Sawhney | | 2875 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 3/25/2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-54 is/are pending in the application.
- 4a) Of the above claim(s) 8, 10-14 and 21-54 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7, 9, 16 and 17 is/are rejected.
- 7) ☒ Claim(s) 15 and 18-20 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input checked="" type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>10/21/03</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The amendment and response to the non-final office action filed on March 25 have been entered. Accordingly, Claim 1 has been amended.
2. Based on a provisional election of Species I of figures 1-4 with traverse, the examiner has considered claims 1-7, 9 and 15-20 readable on Figures 1-4. Accordingly, claims 1-7, 9 and 15-20 have been examined in this office action. Further, claims 8, 10-14 and 21-54 have been withdrawn from further consideration by the examiner.

Information Disclosure Statement

3. The information disclosure statement filed on October 21, 2003 fails to comply with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609 because the format of the publication dates needs to be as --MM-DD-YYYY --. The applicant needs resubmit the information disclosure statement complying with the above-indicated requirement.

It has been placed in the application file, but the information referred to therein has not been considered as to the merits. Applicant is advised that the date of any re-submission of any item of information contained in this information disclosure statement or the submission of any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the statement, including all certification requirements for statements under 37 CFR 1.97(e). See MPEP § 609 ¶ C(1).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-7, 9, 16 and 17 rejected under 35 U.S.C. 103(a) as being unpatentable over Matyear et al. (WP 95/30970) in view of Obrock et al. (US Patent Application Pub. No.: US 2003/0038571 A1) hereafter referred as Obrock.

Matyear et al. (WP 95/30970), hereafter referred as Matyear, discloses an illumination device 10 (Figures 1, 2 and 4, Page 5, line 2) comprising:

- a housing 95,96 – the combination of elements 95 and 96- with an opening (Figure 4, Page 7, lines 17-20); means 30 creating light (Figure 1, 2 and 4, Page 5, line 11); the light from the light-creating means 30 exiting the housing 95,96 through the opening (Figure 4, Page 7, lines 17-20); and
- a member 50 made of light –transmissive material, and having an end portion contiguous the opening (Figure 4, Page 7, lines 17-20); and
- means 18 – one of the elements of the frame 11 (Figures 1 and 4) – encapsulating at least a part of the housing 95,96 (Figures 1 and 4).

However, Matyear does not specifically teaches the capsulating means, of at least a part of the housing, being made of synthetic, polymeric or copolymeric material.

On the other hand, Obrock discloses an illumination device (shelf) 30 (Figures 7-9) including means 104 - end caps- enclosing edges of the shelf made from polymeric material (Figures 7-9, Para. 0008 and 0063).

It would be have been obvious to one of ordinary skill in the art at the time of the invention to modify the illumination device of Matyear providing the end caps made from polymeric material as taught by Obrock for benefit and advantage of light weight and corrosion resistance.

Regarding claims 2—7, 9, 16 and 17, Matyear in view of Obrock discloses the illumination device 10 (Matyear, Figure 1) further including:

- the capsulating means 18 further capsulating at least a portion of the housing 95,96 (Matyear, Figure 4);
- the light –transmitting member 50 being a piece of tempered glass (Obrock, Figure 2, Para. 0046);
- the housing 95,96 disposed along at least one edge of the tempered glass piece 50 (Matyear, Figure 4, Page 7, lines 17-20);
- the capsulating means 18- and other attached elements of the frame 11 – encapsulating substantially entirely a peripheral edges of the tempered glass 50 (Figures 1, 2 and 4);
- means 112 and 114 (Obrock, Figure 6, Para. 0058) securing the encapsulating means 18 (Matyear, Figure 4);
- the light –creating means 30 being an light pipe housed within the housing 95,96 (Matyear, Figure 4, Page 5, lines 10 and 11);
- removable means 25 or 26 or 27 or 28 – removable cover portions – holding two parts of the housing 95,96 (Matyear, Figures 3 and 4, Page 6, lines 24-30);
- the light-transmitting member 50 having its end portion positioned in the housing 95,96 (Matyear, Figure 4); and
- the encapsulating means 18 further encapsulating a portion of the end portion of the light-transmitting 50 (Matyear, Figure 4).

Allowable Subject Matter

6. Claims 15 and 18-20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The prior art of record, including Matyear et al. (WP 95/30970) in view of Obrock et al. (US Patent Application Pub. No.: US 2003/0038571 A1), does not show or suggest the applicant's invention as claimed. Specifically, the prior art of record does not disclose an illumination device combining:

- a bracket means unitizing the housing, the light-transmitting member end portion by an encapsulating means as recited in Claim 15;
- means being a bracket securing one of the housing parts to a support the housing as recited in claims 18-20;
- the bracket being an integrally molded portion of the one part – of the two housing halves - of the housing as recited in Claim 18.

The above-indicated combination of structural elements and their arrangement makes this invention unique.

Therefore, Claims 15 and 18-20 are objected over prior art.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Bienick (US Patent No.; 6,679,573 B2), Marsh (US Patent No.; 6,135,620),
Bousfied (US Patent No.; 6,210,013 B1) and Decaux (US Patent No.; 4,249,231),


8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hargobind S. Sawhney whose telephone number is 703-306-5909. The examiner can normally be reached on 6:15 - 2:45.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on 703-305-4939. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

HSS

6/6/2005


Stephen Husar
Primary Examiner